

REMARKS

Claims 1 to 9, 11 to 15, 17 to 19, 21, 23 to 32, 35 to 39, 41 to 43, 46 and 48 are pending, of which Claims 1, 11, 21, 24, 35 and 46 are independent. Claims 1 to 9, 11, 15, 17, 18, 21, 24 to 32, 35, 39, 41, 42, 46 and 48 are amended. Reconsideration and further examination are respectfully requested.

Claims 1 to 12, 15, 17 to 36, 39 and 41 to 48 are rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,557,042 (He), and Claims 13, 14, 16, 37, 38 and 40 are rejected under 35 U.S.C. § 103(a) over He. Reconsideration and withdrawal of the rejections are respectfully requested.

By way of a non-limiting example and in accordance with one or more embodiments, data streams are broadcast over the network in the form of a personalized Internet radio station, the data streams that are broadcast are selected by a selection process which uses an individual user's preferences, the selection process being influenced by input received from the individual user, but limiting the individual user's control over the selection in order to prevent on-demand broadcast of data streams to the individual user.

Turning to the specific language of the claims, Claim 1 recites a method which accesses a database of data streams by at least one server; selects at least one data stream for broadcast over a computer network to an individual user computer as a personalized internet radio station, the at least one data stream being selected from the database according to a selection method performed by the at least one server to create a playlist of data streams, the selection method performed by the at least one server being influenced by input received from the individual user that comprises individual user preferences for data streams to be broadcast but not controlled by the individual user's input so as to prevent on-demand broadcast of data streams to the individual user; transmits the at least one selected data stream to the individual user computer from the at least one server via the network; receives feedback via the network at the at least one server, the feedback expressing an individual user preference of the individual user regarding the transmitted at least one data stream; and updates the selection method using the individual user

preference. The updated selection method performed by the at least one server biases selection of data streams to be experienced at the individual user computer in accordance with the individual user preferences and limits the individual user's control over selection of particular data streams from the database to prevent on-demand broadcast of data streams.

In accordance with the method of Claim 1, at least one data stream is selected for broadcast over a computer network to an individual user computer as a personalized internet radio station. Claim 1 is amended to even more clearly recite that the data stream selection is performed in accordance with a selection method which is influenced by individual user preferences of the individual user but which is not controlled by the individual user's input to prevent on-demand broadcast of data streams to the individual user.

He cannot form the basis of a proper § 102 rejection, and cannot form the basis of a proper § 103 rejection, since He fails to teach, suggest or disclose multiple claim elements.

In contrast to Claim 1, which controls selection of data streams based on individual user preferences to prevent on-demand broadcast of data streams to the individual user, He provides the user with complete on-demand control over selection of the multimedia content that the user wishes to experience in its entirety, and also gives the user complete control over whether the user experiences multimedia content in its entirety or in summary. When He applies preferences, which is only in the case that the user elects to view a summary of the multimedia content rather than the multimedia content in its entirety, He uses group preferences, which group preferences control the selection of segments of the multimedia content that are included in a multimedia content's summary.

The Applicant respectfully refers the Examiner to He's Abstract and the discussion found at col. 2, lines 19 to 22, which describes that He's *multimedia server computer ... can provide multimedia content, as well as summaries of the multimedia content, to one or more client computers*, and to He's description commencing at col. 8, line 14, which describes that when a user requests content summaries, He generates the summaries, each summary corresponding to a particular multimedia content stream and consisting of segments from the multimedia content

stream, based on group preferences. According to He, a user can request multimedia content from a multimedia server in its entirety, and the server provides the user with the multimedia content in its entirety as requested by the user, which gives the user complete on-demand control over the multimedia content served to the user in He. Further, and only in a case that the user elects to receive summaries of the multimedia content, He uses group preferences, not individual user preferences, and the group preferences used by He control the selection of the segments of multimedia content that are used in the multimedia content summaries. He uses the group preferences, not individual user preferences as claimed, and He only uses the group preferences in a case that the user requests summaries of the multimedia content, which multimedia content the user is also free to select and view on an on-demand basis in its entirety.

He's approach is much different from Claim 1, in which individual user input influences but does not control selection of data streams, in which a selection method limits the user's control over selection of data streams to prevent on-demand broadcast of data streams, and in which the selection method uses individual user preferences for data streams to select data streams for broadcast to the individual user but prevents on-demand broadcast of data streams to the individual user.

In view of the foregoing, since He is missing multiples elements recited in Claim 1, He cannot provide the basis of a proper § 102(e) or a §103(a) rejection. Furthermore and for at least the foregoing reasons, Claim 1, and the claims that depend from Claim 1, are believed to be in condition for allowance. Claims 11, 21, 24, 35 and 46 and the claims that depend from Claims 11, 21, 24, 35 and 46 are also believed to be in condition for allowance for at least the same reasons.

Should matters remain which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicant's undersigned attorney. Alternatively, since it is believed that the claims of the present application are in condition for allowance, the Examiner is respectfully requested to issue a Notice of Allowance at the Examiner's earliest convenience.

The applicant's attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 32361.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

Respectfully submitted,

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